



U.S. Department of Justice

United States Attorney
Southern District of New York

The Jacob K. Javits Federal Building
26 Federal Plaza, 38th Floor
New York, New York 10278

June 6, 2024

BY ECF & EMAIL

The Honorable Katherine Polk Failla
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

**Re: *United States v. Real Property Located at 1 Central Park West,
Unit 32G, New York, New York 10023*, 24 Civ. 2420 (KPF)**

Dear Judge Failla:

The parties write jointly in response to the Court's order dated May 31, 2024. (Dkt. 18).

With respect to the nature of this civil forfeiture action, the Complaint in this matter alleges that Unit 32G in 1 Central Park West (the "Apartment") was purchased in 2014 with funds misappropriated from the Republic of Congo. (*See* Dkt. 1). The Complaint alleges that the Apartment was purchased for the ultimate benefit of the daughter of the long-serving president of the Republic of Congo. (*See generally id.*).

Claimant Ecree LLC ("Ecree"), in whose name the Apartment is held, filed a claim to the Apartment (Dkt. 14), and requested a pre-motion conference on its anticipated motion to dismiss (the "Letter Motion"). (Dkt. 19). The government does not oppose Ecree's request for a pre-motion conference, but has submitted a response to the points Ecree raised in its Letter Motion. (Dkt. 20).

Ecree anticipates raising dispositive arguments and affirmative defenses in this action. As described in the Letter Motion, Ecree will move to dismiss the Complaint on the grounds that it fails to state a claim for relief. If necessary, Ecree also anticipates offering arguments at summary judgment and/or trial that the Government cannot establish the forfeitability of the Apartment. For the reasons stated in Ecree's Letter Motion, Ecree believes that the Government's theory of forfeitability as articulated in the Complaint is insufficient as a matter of law. Ecree believes it would be premature to articulate why the discovery record will further

demonstrate that the Complaint's allegations are not supported as a matter of fact. If the Government is able to establish forfeitability, Ecree anticipates asserting the affirmative defense that it is an "innocent owner" of the Apartment under 18 U.S.C. § 983(d). On June 5, 2024, the government provided counsel for Ecree a high-level overview of its view of Ecree's inability to raise an "innocent owner" affirmative defense. Counsel for Ecree has not yet fully considered the Government's position, but intends to develop the factual bases necessary for this affirmative defense if the Complaint is not dismissed.

In terms of next steps, the Government intends to file a First Amended Complaint (FAC) within 21 days after receiving Ecree's motion to dismiss, pursuant to Fed. R. Civ. P. 15(a)(1)(B).

Respectfully submitted,

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